MSS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**APPELLATE SIDE**

WRIT PETITION NO. 176 OF 2007

MINATAI SURESH ZAMBRE .. PETITIONER

Vs.

UNION OF INDIA & ORS. .. RESPONDENTS

Mr. Shrishail Sakhare for petitioner

Mr. R.S. Master with Mr. D.A. Dube for respondents

**CORAM**: SMT. RANJANA DESAI &
SMT. R. S. DALVI,JJ.

**DATE**: NOVEMBER 23, 2007.

**P.C.**

. The petitioner's case is that the petitioner's husband was enrolled in the Indian Army on 26/8/92. He was declared deserter with effect from 12/12/95 and subsequently he was dismissed from service with effect from 20/4/99. Reply to the notice served by the petitioner's advocate on the respondents indicate that a sum of Rs.19,698/- on account of AFPP fund was paid to the petitioner vide cheque No. AT 355936 dated 15/9/2000 drawn on SBI Jasgaon. Reply further states that requisite documents in connection with payment of AGI

(maturity) were forwarded to the petitioner at her home address for completion and early return to the office. However, no reply was received from the petitioner and the said papers were again forwarded by registered post to the 1st respondent's office. It therefore, appears that the said amount has not been accepted by the petitioner.

2. So far as the petitioner's claim that the petitioner may be given family pension, commuted pension and other pensionary benefits is concerned, learned counsel for the 1st respondent states that the qualifying service for these benefits is 15 years. This is also not disputed by learned counsel for the petitioner. The petitioner has hardly put in three years' of service, therefore, he is not entitled to these benefits. It is, therefore, not possible for us to entertain this petition.

3. Learned counsel for the petitioner has placed reliance on the judgment of the Supreme Court in **Major G. S. Sodhi v. Union of India, (1991) 2 SCC 371** to contend that even a dismissed officer is entitled to pension, gratuity and provident fund under the rules.

4. In our opinion, this judgment will not have any application to the present case. The petitioner therein had put in seventeen and half years' of service. The Supreme Court has observed that he was awarded medals and his services were meritorious. The said judgment, therefore, cannot be applicable to a case of deserter who has put in only three years of service.

5. Learned counsel for the respondents, however, says that all legal dues of the petitioner as stated in reply dated 19/7/06 will be paid to the petitioner. Learned counsel for the petitioner states that if a cheque is forwarded to the petitioner, the petitioner shall accept it. Let the cheque in the amount mentioned in reply dated 19th July, 2006 be forwarded to the petitioner, if it is not so far forwarded and accepted by the petitioner within a period of six weeks from today.

6. Petition is disposed of.

JUDGE

JUDGE